

AMENDED IN ASSEMBLY APRIL 13, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2729**

**Introduced by Assembly Member Wesson**

February 25, 2000

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An act to ~~add Section 22513.5 to~~ amend Section 12110 of, and to add Section 13331.85 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2729, as amended, Wesson. Vehicles: ~~eappers for auto body repair shops and technicians towing service.~~

(1) Existing law prohibits ~~the owner or operator of a tow truck from soliciting business at the scene of an accident or disabled vehicle unless summoned to the scene or asked to stop by the owner or appropriate authorities. Existing law also prohibits the owner or operator of a tow truck from moving a vehicle without the express authorization from the owner or operator of the vehicle, law enforcement officials, or public agency a towing service from providing a gift, commission, or compensations in consideration of arranging or requesting services, and prohibits any person or public entity from accepting these gifts, commissions, or compensations. Existing law also prohibits a towing service or the employee of a towing service from accepting anything of value from a repair shop for the delivery of a vehicle to the shop and prohibits a repair shop from paying any thing of value to a tow truck service for delivery of a vehicle.~~

~~This bill would prohibit any person from acting as a capper or runner, as defined, for an auto repair technician or auto body repair shop, as defined, and soliciting business for an auto body technician or auto body repair shop at the scene of a collision involving a motor vehicle. The bill would prescribe the punishments for first and subsequent offenses—violations of these provisions, and would provide additional measures relating to impounding tow trucks—and suspension of business licenses, if a tow truck owner or operator is involved. Because a violation of this provision would be a new crime subject the offender to an increased period of confinement in the county jail,~~ this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1.—Section 22513.5 is added to the Vehicle~~  
 2     ~~SECTION 1. Section 12110 of the Vehicle Code is~~  
 3     ~~amended to read:~~  
 4     12110. (a) Except as provided in subdivision (b), no  
 5     towing service shall provide and no person or public  
 6     entity shall accept any direct or indirect commission, gift,  
 7     or any compensation whatever from a towing service in  
 8     consideration of arranging or requesting the services of  
 9     a tow truck. As used in this section, “arranging” does not  
 10    include the activities of employees or principals of a  
 11    provider of towing services in responding to a request for  
 12    towing services.  
 13    (b) Subdivision (a) does not preclude a public entity  
 14    otherwise authorized by law from requiring a fee in  
 15    connection with the award of a franchise for towing  
 16    vehicles on behalf of that public entity. However, the fee  
 17    in ~~such~~ those cases ~~shall~~ may not exceed the amount

1 necessary to reimburse the public entity for its actual and  
2 reasonable costs incurred in connection with the towing  
3 program.

4 (c) Any towing service or any employee of a towing  
5 service that accepts or agrees to accept any money or  
6 anything of value from a repair shop and any repair shop  
7 or any employee of a repair shop that pays or agrees to pay  
8 any money or anything of value as a commission, referral  
9 fee, inducement, or in any manner a consideration, for  
10 the delivery or the arranging of a delivery of a vehicle, not  
11 owned by the repair shop or towing service, for the  
12 purpose of storage or repair, is guilty of a misdemeanor,  
13 *punishable as set forth in subdivision (d)*. Nothing in this  
14 subdivision prevents a towing service from towing a  
15 vehicle to a repair shop owned by the same company that  
16 owns the towing service.

17 (d) *Any person convicted of a violation of subdivision*  
18 *(a) or (c) shall be punished as follows:*

19 (1) *Upon first conviction, by a fine of not more than*  
20 *five thousand dollars (\$5,000) and imprisonment in the*  
21 *county jail for not more than 30 days, or by both that fine*  
22 *and imprisonment. The court may, upon conviction,*  
23 *order the department to suspend the offender's driving*  
24 *privileges for four months. In this instance, the clerk of*  
25 *the court shall send a certified abstract of the conviction*  
26 *to the department. If the violation of either subdivision*  
27 *(a) or (c) is committed by a tow truck driver or operator,*  
28 *the court may order the impoundment of the tow truck*  
29 *involved for not more than 15 days.*

30 (2) *Upon second or subsequent convictions, of*  
31 *subdivision (a) or (c), by a fine of not more than ten*  
32 *thousand dollars (\$10,000) and imprisonment in the*  
33 *county jail for not more than one year, or by both that fine*  
34 *and imprisonment. The court may, upon conviction,*  
35 *order the department to suspend the offender's driving*  
36 *privileges for one year. In this instance, the clerk of the*  
37 *court shall send a certified abstract of the conviction to*  
38 *the department. If the violation of either subdivision (a)*  
39 *or (c) is committed by a tow truck driver or operator, the*  
40 *court may order the impoundment of the tow truck*

1 involved for not less than 15 days but not more than 30  
2 days.

3 SEC. 2. Section 13351.85 is added to the Vehicle Code,  
4 to read:

5 13351.85. Upon receipt of a duly certified abstract of  
6 any court showing that a person has been convicted of a  
7 violation of Section 12110 on or after January 1, 2001, the  
8 department shall suspend that person's driving privilege  
9 for four months if the conviction was a first conviction,  
10 and for one year, if the conviction was a second or  
11 subsequent conviction of that section.

12 Code, to read:

13 ~~22513.5. (a) For purposes of this section the following~~  
14 ~~terms have the following meanings:~~

15 ~~(1) An "agent" means one who represents another in~~  
16 ~~dealings with one or more third persons, including but~~  
17 ~~not limited to, a tow truck services provider.~~

18 ~~(2) An "auto body repair shop" has the same meaning~~  
19 ~~as set forth in subdivision (a) of Section 9889.64 of the~~  
20 ~~Business and Professions Code.~~

21 ~~(3) An "auto body technician" has the same meaning~~  
22 ~~as set forth in subdivision (b) of Section 9889.64 of the~~  
23 ~~Business and Professions Code.~~

24 ~~(4) A "runner" or "capper" is any person or~~  
25 ~~corporation acting for consideration in any manner or in~~  
26 ~~any capacity as an agent for an auto body technician or~~  
27 ~~auto body repair shop, whether the technician or repair~~  
28 ~~shop operates in California or any other jurisdiction, in~~  
29 ~~the solicitation or procurement of business for the~~  
30 ~~technician or repair shop.~~

31 ~~(b) It is unlawful for any person to act as a runner or~~  
32 ~~capper for an auto body repair shop or an auto body~~  
33 ~~technician, at the scene of any collision involving a motor~~  
34 ~~vehicle on any street or highway of this state.~~

35 ~~(c) It is unlawful for any person to solicit another to~~  
36 ~~commit or join in commission of a violation of subdivision~~  
37 ~~(b).~~

38 ~~(d) (1) Any person convicted of a violation of~~  
39 ~~subdivision (b) or (c) may be punished, upon first~~  
40 ~~conviction, by a fine of five thousand dollars (\$5,000). If~~

1 ~~the violation of subdivision (b) is committed by a tow~~  
2 ~~truck owner or operator, the court may, at its discretion,~~  
3 ~~order the impoundment of the tow truck involved for no~~  
4 ~~more than 15 days.~~

5 ~~(2) The second or subsequent conviction of~~  
6 ~~subdivision (b) or (c) is punishable by a fine of ten~~  
7 ~~thousand dollars (\$10,000) and imprisonment in the~~  
8 ~~county jail for not more than one year, or by both that fine~~  
9 ~~and imprisonment. If the second conviction of a violation~~  
10 ~~of subdivision (b) involves a tow truck owner or operator,~~  
11 ~~the court shall order the impoundment of the tow truck~~  
12 ~~involved in the violation for no less than 15 days, but not~~  
13 ~~more than 30 days. In addition, the court may~~  
14 ~~recommend a temporary suspension or revocation of the~~  
15 ~~privilege to conduct business to any state, local, or~~  
16 ~~regional entity that issues business permits to a tow truck~~  
17 ~~owner or operator.~~

18 ~~SEC. 2.—~~

19 *SEC. 3.* No reimbursement is required by this act  
20 pursuant to Section 6 of Article XIII B of the California  
21 Constitution because the only costs that may be incurred  
22 by a local agency or school district will be incurred  
23 because this act creates a new crime or infraction,  
24 eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section  
26 17556 of the Government Code, or changes the definition  
27 of a crime within the meaning of Section 6 of Article  
28 XIII B of the California Constitution.